

105TH CONGRESS  
1ST SESSION

# H. R. 2854

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and group and individual health insurance coverage to provide post-delivery follow-up care for mothers and newborns discharged less than 48 hours following a vaginal delivery or less than 96 hours following a delivery by cesarean section.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 1997

Mr. LATOURETTE (for himself, Mr. MILLER of California, Mrs. MORELLA, Mr. DINGELL, Mr. SOLOMON, Ms. DELAURO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCHUGH, Mr. GEJDENSON, Mrs. KELLY, Mr. BALDACCI, Mr. FOLEY, Mr. NADLER, Mr. NETHERCUTT, Mr. FRANK of Massachusetts, Mr. DEFazio, Mrs. THURMAN, Mr. MANTON, Mr. SERRANO, Ms. BROWN of Florida, Ms. WOOLSEY, Mr. ACKERMAN, Ms. RIVERS, Ms. LOFGREN, Mr. VENTO, Mr. EVANS, Mrs. MALONEY of New York, Mr. GUTIERREZ, Mr. BORSKI, Mr. GREEN, and Mrs. MINK of Hawaii) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and group and individual health insurance coverage to provide post-delivery follow-up care for mothers and newborns discharged less than 48 hours following a vagi-

nal delivery or less than 96 hours following a delivery by cesarean section.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REQUIREMENT FOR POST-DELIVERY FOLLOW-**  
 4 **UP CARE FOR EARLY HOSPITAL DISCHARGES**  
 5 **AFTER CHILDBIRTH.**

6 (a) PUBLIC HEALTH SERVICE ACT AMENDMENT.—

7 (1) GROUP HEALTH COVERAGE.—Section  
 8 2704(a) of the Public Health Service Act (42 U.S.C.  
 9 300gg-4(a)) is amended—

10 (A) in paragraph (2), by striking “Para-  
 11 graph” and inserting “Subject to paragraph  
 12 (3), paragraph”, and

13 (B) by adding at the end the following new  
 14 paragraph:

15 “(3) REQUIRING COVERAGE OF POST-DELIVERY  
 16 FOLLOW-UP CARE.—

17 “(A) IN GENERAL.—In the case of a deci-  
 18 sion described in paragraph (2) (relating to  
 19 early discharge), the group health plan or  
 20 health insurance issuer offering the coverage  
 21 shall provide coverage for timely post-delivery  
 22 care in any of the following settings (as selected  
 23 by the mother): the mother’s home, a provider’s  
 24 office, a hospital, a federally qualified health

1 center, a federally qualified rural health clinic,  
2 a State health department maternity clinic, or  
3 another setting (which may include a birthing  
4 center or an intermediate care facility) deter-  
5 mined appropriate under regulations promul-  
6 gated by the Secretary.

7 “(B) TIMELY CARE.—For purposes of sub-  
8 paragraph (A), the term ‘timely post-delivery  
9 care’ means health care that is provided—

10 “(i) to a mother and her newborn  
11 child following the discharge of a mother  
12 and her newborn child from the hospital;

13 “(ii) by a registered nurse, physician  
14 (as defined in section 1861(r)(1) of the So-  
15 cial Security Act), nurse practitioner,  
16 nurse midwife, or physician assistant expe-  
17 rienced in maternal and child health, as se-  
18 lected by the mother; and

19 “(iii) in a manner that meets the  
20 health care needs of the mother and her  
21 newborn child, that provides for the appro-  
22 priate monitoring of the conditions of the  
23 mother and child, and that occurs within  
24 72 hours following discharge.

1 “(C) CONSISTENCY WITH STATE LAW.—

2 The Secretary shall, with respect to regulations  
3 promulgated under to carry out this paragraph  
4 and concerning appropriate post-delivery care  
5 settings, ensure that, to the extent practicable,  
6 such regulations are consistent with State li-  
7 censing and practice laws.”.

8 (2) APPLICATION TO INDIVIDUAL HEALTH IN-  
9 SURANCE COVERAGE.—The amendments made by  
10 paragraph (1) apply to health insurance coverage in  
11 the individual market under section 2751(a) of the  
12 Public Health Service Act (42 U.S.C. 300gg–51).

13 (b) ERISA AMENDMENTS.—Section 711(a) of the  
14 Employee Retirement Income Security Act of 1974 (29  
15 U.S.C. 1185(a)) is amended—

16 (1) in paragraph (2), by striking “Paragraph”  
17 and inserting “Subject to paragraph (3), para-  
18 graph”, and

19 (2) by adding at the end the following new  
20 paragraph:

21 “(3) REQUIRING COVERAGE OF POST-DELIVERY  
22 FOLLOW-UP CARE.—

23 “(A) IN GENERAL.—In the case of a deci-  
24 sion described in paragraph (2) (relating to  
25 early discharge), the group health plan or

1 health insurance issuer offering the coverage  
2 shall provide coverage for timely post-delivery  
3 care in any of the following settings (as selected  
4 by the mother): the mother’s home, a provider’s  
5 office, a hospital, a federally qualified health  
6 center, a federally qualified rural health clinic,  
7 a State health department maternity clinic, or  
8 another setting (which may include a birthing  
9 center or an intermediate care facility) deter-  
10 mined appropriate under regulations promul-  
11 gated by the Secretary.

12 “(B) TIMELY CARE.—For purposes of sub-  
13 paragraph (A), the term ‘timely post-delivery  
14 care’ means health care that is provided—

15 “(i) to a mother and her newborn  
16 child following the discharge of a mother  
17 and her newborn child from the hospital;

18 “(ii) by a registered nurse, physician  
19 (as defined in section 1861(r)(1) of the So-  
20 cial Security Act), nurse practitioner,  
21 nurse midwife, or physician assistant expe-  
22 rienced in maternal and child health, as se-  
23 lected by the mother; and

24 “(iii) in a manner that meets the  
25 health care needs of the mother and her

1 newborn child, that provides for the appro-  
 2 priate monitoring of the conditions of the  
 3 mother and child, and that occurs within  
 4 72 hours following discharge.

5 “(C) CONSISTENCY WITH STATE LAW.—  
 6 The Secretary shall, with respect to regulations  
 7 promulgated under to carry out this paragraph  
 8 and concerning appropriate post-delivery care  
 9 settings, ensure that, to the extent practicable,  
 10 such regulations are consistent with State li-  
 11 censing and practice laws.”.

12 (c) INTERNAL REVENUE CODE OF 1986 AMEND-  
 13 MENT.—Section 9811 of the Internal Revenue Code of  
 14 1986, as inserted by section 1531(a)(4) of the Taxpayer  
 15 Relief Act of 1997, is amended—

16 (1) in paragraph (2), by striking “Paragraph”  
 17 and inserting “Subject to paragraph (3), para-  
 18 graph”, and

19 (2) by adding at the end the following new  
 20 paragraph:

21 “(3) REQUIRING COVERAGE OF POST-DELIVERY  
 22 FOLLOW-UP CARE.—

23 “(A) IN GENERAL.—In the case of a deci-  
 24 sion described in paragraph (2) (relating to  
 25 early discharge), the group health plan or

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3 care in any of the following settings (as selected  
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5 office, a hospital, a federally qualified health  
6 center, a federally qualified rural health clinic,  
7 a State health department maternity clinic, or  
8 another setting (which may include a birthing  
9 center or an intermediate care facility) deter-  
10 mined appropriate under regulations promul-  
11 gated by the Secretary.

12 “(B) TIMELY CARE.—For purposes of sub-  
13 paragraph (A), the term ‘timely post-delivery  
14 care’ means health care that is provided—

15 “(i) to a mother and her newborn  
16 child following the discharge of a mother  
17 and her newborn child from the hospital;

18 “(ii) by a registered nurse, physician  
19 (as defined in section 1861(r)(1) of the So-  
20 cial Security Act), nurse practitioner,  
21 nurse midwife, or physician assistant expe-  
22 rienced in maternal and child health, as se-  
23 lected by the mother; and

24 “(iii) in a manner that meets the  
25 health care needs of the mother and her

1 newborn child, that provides for the appro-  
2 priate monitoring of the conditions of the  
3 mother and child, and that occurs within  
4 72 hours following discharge.

5 “(C) CONSISTENCY WITH STATE LAW.—

6 The Secretary shall, with respect to regulations  
7 promulgated under to carry out this paragraph  
8 and concerning appropriate post-delivery care  
9 settings, ensure that, to the extent practicable,  
10 such regulations are consistent with State li-  
11 censing and practice laws.”.

12 (d) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Subject to paragraph (2),  
14 the amendments made by this section shall apply  
15 with respect to—

16 (A) group health plans, and health insur-  
17 ance coverage offered in connection with group  
18 health plans, for plan years beginning after  
19 January 1, 1999; and

20 (B) health insurance coverage offered,  
21 sold, issued, renewed, in effect, or operated in  
22 the individual market after such date.

23 (2) SPECIAL RULE FOR COLLECTIVE BARGAIN-  
24 ING AGREEMENTS.—In the case of a group health  
25 plan maintained pursuant to one or more collective



1 bargaining agreements between employee representa-  
2 tives and one or more employers ratified before the  
3 date of the enactment of this Act, the amendments  
4 made by this section shall not apply to plan years  
5 beginning before the later of—

6 (A) the date on which the last of the col-  
7 lective bargaining agreements relating to the  
8 plan terminates (determined without regard to  
9 any extension thereof agreed to after the date  
10 of the enactment of this Act), or

11 (B) January 1, 1999.

12 For purposes of subparagraph (A), any plan amend-  
13 ment made pursuant to a collective bargaining  
14 agreement relating to the plan which amends the  
15 plan solely to conform to any requirement imposed  
16 under an amendment made by this Act shall not be  
17 treated as a termination of such collective bargain-  
18 ing agreement.

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